

United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

DATE MAILED: 08/10/2006

| APPLICATION NO. | F | ILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---------|----------------|----------------------|------------------------------|------------------|
| 10/071,272 | | 02/08/2002 | Greg A. Penner | 11898.0021.NPUS00 (MOBS:0 | 9001 |
| 45607 | 7590 | 08/10/2006 | | EXAM | INER |
| HOWREY | | DED A DEL CELE | | HAAS, W | ENDY C |
| C/O IP DOCKETING DEPARTMENT 2941 FAIRVIEW PARK DRIVE SUITE 200 | | | 00 | ART UNIT | PAPER NUMBER |
| FALLS CH | URCH, V | A 22042 | | 1661 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

| Application No. | Applicant(s) |
|-----------------|---------------|
| 10/071,272 | PENNER ET AL. |
| Examiner | Art Unit |
| Wendy C. Haas | 1661 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

| THE REPLY FILED 31 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. | |
|--|--------------------------------------|
| 1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abathis application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other eviden places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one | rce, which FR 41.31: or (3) |
| time periods: | or the following |
| a) The period for reply expiresmonths from the mailing date of the final rejection. | |
| b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whi no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. | on. |
| Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FITWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). | |
| Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the approprial have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The approprial under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, a may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL | ate extension fee |
| 2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two month filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). | is of the date of e appeal. Since |
| <u>AMENDMENTS</u> | |
| 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered be (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); | ecause |
| (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying tappeal; and/or | the issues for |
| (d) They present additional claims without canceling a corresponding number of finally rejected claims. | |
| NOTE: (See 37 CFR 1.116 and 41.33(a)). | |
| 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (| (PTOL-324). |
| 5. Applicant's reply has overcome the following rejection(s): | |
| Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendme non-allowable claim(s). | |
| 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an e how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: 14-18. | xplanation of |
| Claim(s) objected to: Claim(s) rejected: <u>1 and 11-13</u> . Claim(s) withdrawn from consideration: | |
| AFFIDAVIT OR OTHER EVIDENCE | |
| 8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will no because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is was not earlier presented. See 37 CFR 1.116(e). | necessary and |
| 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, ventered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fail showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1) | ls to provide a |
| 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attach REQUEST FOR RECONSIDERATION/OTHER | ed. |
| 11. The request for reconsideration has been considered but does NOT place the application in condition for alloware See Continuation Sheet. | ice because: |
| 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) | |
| WENDY HAAS | |
| PATENT EXAMINI | ER |
| uh a u | |

Continuation of 11. does NOT place the application in condition for allowance because: Applicant has incorporated the limitations of Claim 3 into Claim 1; however addition of these limitations, which were also rejected in the previous Office Action, does not overcome the outstanding rejections to the claims presented -- though new rejections would be made to claims 11-13 to incorporate the reasons claim 3 was rejected.